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9 Construction, Inc.; A.G. Spanos
Development, Inc.; A.G. Spanos
10 Land Company, Inc.; A.G. Spanos
Management, Inc., The Spanos Corporation
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12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 National Fair Housing Alliance, Inc., et al.,	)	CASE NO. C07-03255-SBA
)	
15 Plaintiffs,	)	NOTICE OF MOTION AND MOTION
	)	OF A.G. SPANOS CONSTRUCTION,
16 vs.	)	INC.; A.G. SPANOS DEVELOPMENT,
	)	INC.; A.G. SPANOS LAND
17 A.G. Spanos Construction, Inc., et al.	)	COMPANY, INC.; A.G. SPANOS
	)	MANAGEMENT, INC., AND THE
18 Defendants.	)	SPANOS CORPORATION TO STRIKE
	)	VARIOUS CLAIMS FOR RELIEF
	)	SOUGHT IN PLAINTIFFS' FIRST
	)	AMENDED COMPLAINT

19
20 [Fed. R. Civ. P. 12(f)]

21 Hearing Date: February 26, 2008
22 Time: 1:00 p.m.
23 Dept.: Courtroom 3

24 Complaint Filed: June 20, 2007

25 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

26 **PLEASE TAKE NOTICE** that on February 26, 2008 at 1:00 p.m., or as soon
27 thereafter as this matter may be heard, in Courtroom 3 of the above-entitled court, located at
28 1301 Clay Street, 3rd Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc.,

1 A.G. Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos
 2 Management, Inc., and The Spanos Corporation ("Defendants") will and hereby do move this
 3 court, pursuant to Rule 12(f) of the Federal Rules of Civil Procedure, for an order striking
 4 various claims for relief sought by Plaintiffs National Fair Housing Alliance, Inc., Fair
 5 Housing of Marin, Inc., Fair Housing Napa Valley, Inc., Metro Fair Housing Services, Inc.,
 6 Fair Housing Continuum, Inc. ("Plaintiffs").

7 The basis of this Motion, as set forth more fully in the accompanying Memorandum of
 8 Points and Authorities, is that:

- 9 I. PLAINTIFFS' REQUEST FOR DAMAGES SHOULD BE STRICKEN
 10 BECAUSE DAMAGES ARE NOT RECOVERABLE BY THESE
 11 PLAINTIFFS.
- 12 II. PLAINTIFFS' REQUEST FOR PUNITIVE DAMAGES SHOULD BE
 13 STRICKEN BECAUSE PUNITIVE DAMAGES ARE NOT RECOVERABLE
 14 AS A MATTER OF LAW.
- 15 III. PLAINTIFFS' REQUEST FOR INJUNCTIVE RELIEF REGARDING ALL
 16 APARTMENTS PREVIOUSLY BUILT SHOULD BE STRICKEN BECAUSE
 17 PLAINTIFFS HAVE FAILED TO STATE A CLAIM FOR SUCH RELIEF.
 - 18 A. Plaintiffs Have Failed to State a Claim for Injunctive Relief Because
 19 Plaintiffs Have Not Named the Owners, Renters, and Secured Lenders of
 20 the Subject Properties.
 - 21 B. Plaintiffs Have Failed to State a Claim for Injunctive Relief under the
 22 FHAA Against the Spanos Defendants Because Plaintiffs Fail to Allege
 23 That the Spanos Defendants Actually Denied, or Could Actually Deny, a
 24 Rental to Anyone.
- 25 IV. THOSE PORTIONS OF PLAINTIFFS' FIRST AMENDED COMPLAINT
 26 THAT SEEK RELIEF BARRED BY THE STATUTE OF LIMITATIONS
 27 SHOULD BE STRICKEN.
- 28 V. PLAINTIFFS' CLAIMS FOR RELIEF BASED ON THE UNTESTED AND
UNKNOWN PROPERTIES SHOULD BE STRICKEN BECAUSE
PLAINTIFFS COULD NOT HAVE SUFFERED INJURY CAUSED BY
TESTING UNTESTED OR UNKNOWN PROPERTIES.

29 This Motion will be based upon this Notice of Motion and Motion, the Memorandum of
 30 Points and Authorities in support of this Motion, the Request for Judicial Notice in support of
 31 this Motion, and the pleadings, orders, records and documents on file in this case, as well as
 32 such oral and documentary evidence as may be properly presented at the time of the hearing on

1 this Motion. Opposition, if any, to the granting of the motion must be served and filed not less
2 than twenty-one (21) days before the hearing date. If the party against whom the motion is
3 directed does not oppose the motion, that party must file with the Court a Statement of Non-
4 opposition within the time for filing and serving any opposition. *See* Local Rule 7-3(a) and 7-
5 3(b).

6 Dated: December 21, 2007

FREEMAN, D'AIUTO, PIERCE, GUREV,
KEELING & WOLF

7
8 By 

LEE ROY PIERCE, JR.

9 Attorneys for Defendants A.G. Spanos
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11 Inc.; A.G. Spanos Land Company, Inc.; A.G.
Spanos Management, Inc., The Spanos
Corporation
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